



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/600,396

06/20/2003

Bruce Merdjan

1052-2

8533

25903

7590

05/04/2006

JACKIE JAY SCHWARTZ

1350 Broadway

Suite 1510

NEW YORK, NY 10018

EXAMINER

DESCHERE, ANDREW M

ART UNIT

PAPER NUMBER

2836

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/600,396

Applicant(s)

MERDJAN, BRUCE

Examiner

Andrew M. Deschere

Art Unit

2836

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                                     |

## **DETAILED ACTION**

### ***Response to Amendment***

The amendment filed 6 March 2006 has amended claims 1, 8, 13-15, and 18.

Examiner's rejection of these claims under 35 U.S.C. 112 is withdrawn.

### ***Drawings***

The drawings were received on 6 March 2006. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5-9, 11-12, and 18-20 rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent 6,891,478 ("Gardner").

Gardner discloses a system for controlling electric appliances (Figure 1). Each load has its own set priority level, and each load has its power consumption status monitored (Figure 4). The operational state of each load is provided to the controller of the system, and their status visually indicated (Figure 6b). A group of electrical appliances could be plugged into the ordinary electrical outlet provided to control each load.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 10, and 13-17 rejected under 35 U.S.C. 103(a) as being unpatentable over Gardner and United States Patent 5,986,353 ("Köhler").

Gardner discloses a priority-based electrical supply system with sensors, but does not teach that only a single load may be powered at a time. Köhler teaches an arrangement to exclusively connect loads. Sensors detect if a load is activated, and trigger switches that prevent other loads from activating. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the inventions of Gardner and Köhler to prevent overloading of the system of Gardner by only permitting the use of one load at a time.

***Response to Arguments***

Applicant's arguments filed 6 March 2006, see pages 10-11, have been fully considered but they are not persuasive. Applicant argues on page 10, "Gardner allows for interruption of a supply to a load for a predetermined period of time as opposed to the present claimed invention which connects the operating supply to the appliance determined to be in an on state and having a highest priority. Thus, Gardner neither discloses nor suggests 'said apparatus...the operating supply' as in the present claimed invention." Examiner respectfully traverses. While Gardner supplies loads for a predetermined time, this action is done based upon a priority set at the attachment point (outlet) to an appliance. Thus, power will be supplied to the attached

Art Unit: 2836

appliance, based upon a priority. However, if the attached appliance is not in an operative (ON) state, it will not receive power.

Applicant's arguments filed 6 March 2006, see pages 11-12, have been fully considered but they are not persuasive. Applicant's arguments with respect to claim 8 are made in reference to Kohler. Examiner's rejection was made in view of Gardner, and Examiner's response, accordingly, will be made in view of Gardner. Applicant argues that the prior art does not disclose priority made with groups of appliances. Examiner respectfully traverses. The invention of Gardner includes ordinary household electrical receptacles, these receptacles potentially having multiple outlets. As such, multiple appliances could be plugged into the same receptacle, and receive the same priority as a single "group".

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Gardner and Kohler disclose safety systems that prevent excessive loading on a supply by inhibiting the connection of surplus loads. Gardner teaches sequential connection based upon priority of loads, and Kohler teaches preventing more than one load from being simultaneously connected. The priority system of Gardner provides automatic supply to loads based upon predetermined priority, while Kohler switches loads after user activation. If the system of Gardner comprised loads that must be in an on state exclusive of all other loads, the teachings of Kohler could be applied to prevent additional loads from activating.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

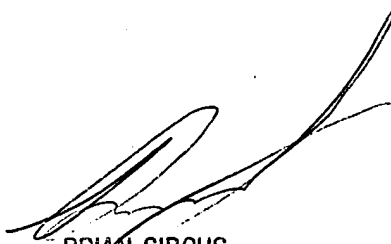
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M. Deschere whose telephone number is (571) 272-8391. The examiner can normally be reached on M-F 8:30-6:00, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on (571) 272-2800 x36. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2836

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AMD



BRIAN SIRCUS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800